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Paper No. 7

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OFFICE OF PETITIONS

In re Application of	:
Soheila Abdolbaghian et al	:
Application No. 09/721,498	: DECISION REFUSING STATUS
Filed: November 22, 2000	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 81087-250435	:

This is in response to the petition, filed September 18, 2001, requesting reconsideration of a decision mailed August 15, 2001, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the nonsigning inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the nonsigning inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the nonsigning inventor. Applicant lacks item (2) set forth above.

As to item (2), as noted in the decision mailed August 15, 2001, the declaration is defective since it is not in compliance with 37 CFR 1.63 and 1.64 and, as such, is not acceptable. As explained in the decision of August 15, 2001, the declaration

does not set forth nonsigning inventor Tuan Nguyen's residence, mailing address and citizenship.

Petitioner seeks to satisfy the requirements of 37 CFR 1.47(a), 37 CFR 1.63 and 37 1.64 by stating the citizenship of inventor Nguyen in the petition. Petitioner further states that it is his understanding from a conversation with Office personnel that Mr. Nguyen's residence and mailing address were sufficiently provided in the submitted declaration.

Petitioner's attention is directed to 35 USC 115 which states:

The applicant shall make oath that he believes himself to be the original and first inventor of the process, machine, manufacture, or composition of matter, or improvement thereof, for which he solicits a patent; and shall state of what country he is a citizen.

Petitioner's attention is also directed to 37 CFR 1.76 which provides that the residence and mailing address of the inventor may be included on an Application Data Sheet, but that the citizenship is governed by 37 CFR 1.63(a)(3).

In view of the above, petitioner must submit an oath or declaration bearing the citizenship of inventor Nguyen, as well as his residence and mailing address. While, as noted above, the residence and address may be included on an Application Data Sheet, the citizenship must be set forth in the oath or declaration.

In order to expedite consideration, petitioner may wish to submit the renewed petition under 37 CFR 1.47(a) by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
 Box DAC
 Washington, D.C. 20231

By FAX: (703) 308-6916
 Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned
at (703) 305-8680.

A handwritten signature in cursive script, reading "Frances Hicks".

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy